

DRAFT
Finding of Suitability to
Transfer (FOST) Middlesex
South New Jersey Site
Middlesex, New Jersey

October 2019



U.S. DEPARTMENT OF
ENERGY

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List of Acronyms and Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	<i>Code of Federal Regulations</i>
COC	contaminant of concern
CY	cubic yards
DOE	U.S. Department of Energy
ECP	environmental condition of property
EPA	U.S. Environmental Protection Agency
EPP	Environmental Protection Provision
FOST	Finding of Suitability to Transfer
FUSRAP	Formerly Utilized Sites Remedial Action Program
HPT	health physicist technician
mg/kg	milligrams per kilogram
MSP	Middlesex Sampling Plant
NEPA	National Environmental Policy Act
NJDEP	New Jersey Department of Environmental Protection
NPL	National Priorities List
OU	operable unit
PAH	polycyclic aromatic hydrocarbons
PCB	polychlorinated biphenyl
PRAR	Post Remedial Action Report
ROD	Record of Decision
USACE	U.S. Army Corps of Engineers
USC	<i>United States Code</i>
UST	underground storage tank
UXO	unexploded ordnance

1.0 Purpose

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability of a portion of the Middlesex South, New Jersey site (the former Middlesex Sampling Plant [MSP]), Middlesex, New Jersey, for transfer to the Borough of Middlesex, Middlesex County, New Jersey (the Borough), consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) (3) and U.S. Department of Energy (DOE) guidance. In addition, the FOST includes the CERCLA Notice, Covenant, and Access Provisions and other Deed Provisions and the Environmental Protection Provisions (EPPs) necessary to protect human health or the environment after such transfer.

On August 13, 2019, the Borough submitted a *Proposal to Transfer the Middlesex Sampling Plant to the Borough of Middlesex Pursuant to 10 CFR 770, Transfer of Real Property at Defense Nuclear Facilities for Economic Development* to DOE. DOE is currently working in collaboration with the Borough, the U.S. Environmental Protection Agency (EPA) and the State of New Jersey Department of Environmental Protection (NJDEP) on this proposed transfer in accordance with Title 10 *Code of Federal Regulations* Section 770 (10 CFR 770) and CERCLA.

2.0 Middlesex South, New Jersey Site and FOST Parcel Description

The Middlesex South, New Jersey site (Site) consists of approximately 9.6 acres (approximately 3.9 hectares), located at 239 Mountain Avenue, in the Borough of Middlesex, Middlesex County, New Jersey, approximately 18 miles southwest of Newark, New Jersey. The Site is government-owned. It is currently undeveloped, vacant land covered with native vegetation and zoned for industrial use (see Enclosure 1, Figures 1, 2, and 7). The Site was listed on the EPA's National Priorities List (NPL) as the Middlesex Sampling Plant (DOE) (ID number NJ0890090012) on January 19, 1999 and is being addressed by DOE and the U.S. Army Corps of Engineers (USACE) in accordance with CERCLA. Middlesex County tax maps identify the Site as Block 318 Lot 1.01 and Block 319 Lot 45 (Develop block number 31: development lot numbers 1, 1 1/2, 2, 3, 3 1/2, 4, 7 1/2, 8, 9, 10, and 11). See Enclosure 1, Figure 4.

The portion of the Site covered by this FOST is identified as the area south of the line shown on Enclosure 1, Figure 5 (between 74°29'33.212"W40°34'11.618"N and 74°29'28.114"W 40°34'11.618"N), which hereinafter is referred to as the "FOST Parcel." The actual real estate bounds of the FOST Parcel will be surveyed and recorded in the deed. See Enclosure 1, Figure 6 for future civil survey locations. The FOST Parcel is bordered to the east by residential and commercial properties, to the north by the remaining portion of the Site, to the west by a former auto salvage yard, and to the south by a small parcel of Borough-owned vacant land. The Site is fenced, and public access is restricted.

2.1 Middlesex South, New Jersey Site and FOST Parcel History

This section discusses the history of the Site; the FOST Parcel is a portion of this Site. Before the government took possession of the land, it was occupied by an asphalt paint manufacturing company as early as 1910. During 1943, the government leased and eventually took possession

of the land to establish the MSP. The MSP supported both the Manhattan Engineering District and Atomic Energy Commission nuclear weapons development. The MSP was initially utilized to mechanically process, assay, and package uranium ores to support the Manhattan Engineering District and was operated until February 18, 1955. At this time, the duties and responsibilities were completely transferred to the Sampling Plant at the Feed Materials Production Center at Fernald, Ohio. Toward the end of MSP operations (1952–1954) and to a much lesser extent, the Site was also utilized to mechanically process, assay, and package beryllium ores. After MSP operations ended, the Site was used to store containers holding materials containing uranium and thorium (1955–1968). In 1968, the U.S. General Services Administration transferred the Site to the U.S. Department of the Navy. The Site served as a U.S. Marine Corps reserve training center from 1969 to 1979 before it was placed in the custody of DOE in 1980. DOE completed numerous investigations and removal actions at adjacent properties and the Site throughout the 1980s and 1990s. USACE undertook responsibility for remedial actions in 1998 under the Formerly Utilized Sites Remedial Action Program (FUSRAP). In 1999, EPA placed the Site on the CERCLA NPL of sites with hazardous substances, pollutants, or contaminants, and remediation is being performed in accordance with CERCLA. The USACE completed a CERCLA Remedial Investigation and Feasibility Study for soils in 2004. The soils Proposed Plan was issued for public comment and the soils Record of Decision was signed in 2005. USACE design and remedial activities for soils occurred from 2006 to 2009. Based on this remedial action the FOST Parcel is remediated for soils to unrestricted use. From 2009 until the present USACE has been addressing groundwater at the Site in accordance with CERCLA. As reported in the groundwater Feasibility Study (USACE 2017a) sampling has demonstrated uranium in groundwater at all well locations on the FOST Parcel are below levels requiring remediation and continue to decline. Proposed groundwater remedial activities do not negatively impact this FOST.

2.2 Current Middlesex South, New Jersey and FOST Parcel Status

All buildings, pavement, and subsurface structures (piping, tanks, etc.) associated with government operations were removed from the Site as part of CERCLA removal or remedial actions. Twelve government-owned groundwater monitoring wells currently exist on the FOST Parcel. The wells are part of a monitoring well network associated with ongoing CERCLA groundwater actions and do not negatively impact this FOST. Groundwater contaminants beneath the FOST Parcel are below levels requiring a remedial action, and the source material has been removed. Surface and subsurface remediation of the FOST Parcel is complete. The history of remediation of the FOST Parcel is well documented in the MSP Site Administrative Record. The Administrative Record can be found at the Middlesex Public Library, 1300 Mountain Avenue, Middlesex, New Jersey 08846. A list of references including former MSP site historical information is in Enclosure 2.

2.3 Intended Reuse

The Borough's transfer proposal states that the proposed FOST Parcel will be used for a new Department of Public Works facility and for the construction of a public access road on the southern portion of the FOST Parcel. The public access road will also serve as the preferred means of access to the proposed warehouse that will be developed at an adjacent property (245 Mountain Avenue) for the purposes of providing an alternate route other than Mountain Avenue for the construction vehicles and other activities during the redevelopment of this

adjacent property. This FOST document applies only to the FOST Parcel, which is the southern portion of the Site (see Enclosure 1, Figure 5). The future use of the FOST Parcel proposed by the Borough is consistent with the EPPs identified in Enclosure 7. While the soil cleanup standards support unrestricted use, any transferee(s) purchasing the FOST Parcel should use the Parcel consistent with current zoning, and any change in the zoning will need to be done in accordance with the law, the deed, and this FOST.

3.0 Environmental Documentation

A determination of the environmental condition of the FOST Parcel was made based upon the following primary documents and supplemented by additional documents that are listed in Enclosure 2. USACE received concurrence from EPA and NJDEP on the soils remedial action by approval of the September 2010 *Final Post Remedial Action Report, Soils Operable Unit 1, Middlesex Sampling Plant, Middlesex, New Jersey* (USACE 2010). These concurrence letters are provided in Enclosure 2.

- *Groundwater Operable Unit Remedial Investigation Report, Middlesex Sampling Plant, Middlesex, New Jersey* (USACE 2005a)
- *Soils Operable Unit, Record of Decision, Middlesex Sampling Plant, Middlesex, New Jersey. New York District, Formerly Utilized Sites Remedial Action Program* (USACE 2005b)
- *Final Post Remedial Action Report, Soils Operable Unit 1, Middlesex Sampling Plant, Middlesex, New Jersey* (USACE 2010), hereafter referred to as the Post Remedial Action Report (PRAR)
- *Final Feasibility Study Report, Groundwater Operable Unit, Middlesex Sampling Plant FUSRAP Site, Middlesex, New Jersey* (USACE 2017a)
- *Groundwater Investigation Technical Memorandum, Middlesex Sampling Plant, Middlesex, New Jersey* (USACE 2017b)

4.0 Environmental Condition of Middlesex South, New Jersey Site and FOST Parcel

As defined by American Society for Testing and Materials Standard No. 5746 98, “Standard Classification of Environmental Condition of Property Area Types,” discrete areas, referred to as parcels, were classified into one of seven standard environmental condition of property (ECP) area types (categories). Classifications are assigned both on the basis of the type of chemical releases (hazardous substances or petroleum) found at the properties and the status of the properties’ cleanup activities. A brief description of the relevant ECP categories is presented below:

- ECP Category 3—An area or parcel of real property where release, disposal, migration, or some combination thereof of hazardous substances has occurred but at concentrations that do not require a removal or remedial action.

- ECP Category 4—An area or parcel of real property where release, disposal, migration, or some combination thereof of hazardous substances has occurred, and all remedial actions necessary to protect human health and the environment have been taken.

The FOST Parcel is both an ECP Category 3, and ECP Category 4 site. It is a Category 3 with respect to the groundwater and a Category 4 with respect to the soils.

Uranium was initially identified as a concern in overburden groundwater. However, after the soil remediation was completed, the uranium levels in the groundwater declined below levels requiring remediation and are expected to continue to decline (USACE 2017a). The groundwater investigation and remediation for volatile organic compounds in the shallow bedrock aquifer will continue for the remainder of the Site, but that does not affect the FOST Parcel or the suitability to transfer the FOST Parcel. There are no remaining groundwater issues on the FOST Parcel as the contaminants beneath the FOST Parcel are below levels requiring a remedial action and the source material has been removed.

CERCLA remedial actions were completed to address hazardous substance contamination of the soils at the Site, including the FOST Parcel. The soil cleanup, which consisted of the offsite disposal of contaminated soils, was completed, and the soils have been remediated to an unrestricted use level. No institutional controls are required for the soils.

- It should be noted that adjacent properties' (vicinity properties) soils are being addressed in a separate CERCLA action, are not government-owned, and have no bearing on this FOST Parcel.

The Site (including the FOST Parcel) will be conveyed by the DOE pursuant to Section 161g of the Atomic Energy Act and 10 CFR 770. Remediation of soils is complete, and groundwater contaminants beneath the FOST Parcel are below levels requiring a remedial action. Therefore, a FOST pursuant to CERCLA 120(h)(3) is the appropriate mechanism to transfer this FOST Parcel.

4.1 Environmental Remediation Sites

The Site is being addressed by USACE and DOE under FUSRAP, which is conducted in accordance with CERCLA. There are currently two Operable Units (OUs) associated with the Site.

Operable Unit 1 (OU1) addressed soils, buildings, and debris on the Site (9.6 acres), as well as the south drainage ditch area, adjacent to the site. The OU1 contaminants of concern (COCs) were uranium and its daughter products, lead, and polycyclic aromatic hydrocarbons (PAHs). See Enclosures 3 and 4. Enclosure 3 provides the volume of contaminated soils excavated and the final disposition of contaminated soils as well a list of performance results compared to the remedial action objectives. Enclosure 4 provides information on historic hazardous substances release and associated remedial actions. On September 21, 2010, OU1 received closure certification from EPA and was released for unrestricted use related to soils.

Operable Unit 2 (OU2) is currently addressing groundwater beneath the Site. The groundwater contamination associated with OU2 does not affect the FOST Parcel. The removal of the contaminated media addressed in OU1 remediation has resulted in the removal of potential

sources that may further impact the groundwater (USACE 2017a). Findings presented in the groundwater Feasibility Study (USACE 2017a) demonstrated contamination in groundwater at all well locations on the FOST Parcel are below levels requiring a remedial action. Planned OU2 remedial activities do not negatively impact this FOST Parcel or its suitability for transfer.

USACE will address radiological concerns on adjacent properties including past removal actions. It should be noted that for adjacent properties' (vicinity properties), only radiological contamination in soils are being addressed, the properties are not government-owned, and have no bearing on this FOST Parcel.

4.2 Storage, Release, or Disposal of Hazardous Substances

During OU1 remedial excavation activities, approximately 4454 in situ cubic yards (CY), or 7781 tons of chemically (PAHs and lead) impacted waste was excavated and disposed of at a properly permitted, offsite disposal facility. See Enclosures 3 and 4 for information related to the excavation and disposal as well as the documented historic release of these substances. The entire Site was released for unrestricted use with regard to soil contamination (see Enclosure 3, Table 1b). USACE received concurrence from EPA and NJDEP on the soils remedial action by approval of the PRAR (USACE 2010). These concurrence letters are referenced in Enclosure 2.

4.3 Petroleum and Petroleum Products

4.3.1 Underground and Aboveground Storage Tanks

During remedial excavation activities, the government encountered two 1893-liter (550-gallon) underground storage tanks (USTs). See Enclosure 1, Figure 8. One UST (UST #1) was likely associated with the former administration building; the other (UST #2) was located near the former garage building. Both USTs contained No. 2 heating oil. The government contracted to remove and dispose of the UST contents, oversee UST removal, obtain and analyze post excavation soil samples, and prepare a UST closure report. Neither UST location is associated with the FOST Parcel, and the historic presence of these USTs does not negatively impact this FOST.

Waste generated during the UST removal included approximately 1135 liters (300 gallons) of residual petroleum product from UST #1 and 5299 liters (1400 gallons) of residual petroleum product and petroleum-impacted water collected from the tank contents and associated excavation for UST #2. Additionally, approximately 77 US-short tons of petroleum contaminated soil comingled with radiologically impacted soils was generated.

All petroleum liquid wastes were disposed of at Clean Water of New York. The impacted soils were subsequently sent as part of the shipments of other radiologically impacted soils generated from the OU1 remedial activities (see Enclosure 5).

Postexcavation soil samples were collected and analyzed from each UST excavation as part of the UST closure effort. The analytical results indicated that total petroleum hydrocarbons concentrations ranged from nondetected to a maximum of 52 milligrams per kilogram (mg/kg). A follow-up priority pollutant+40 analysis of a sample collected during the UST #2 removal

yielded a concentration of 52 mg/kg, which was within NJDEP compliance limits for all parameters.

A “No Further Action” classification of the former UST sites was approved for the soils based on the UST closure activities and the analytical results for soil collected post UST removal and as a result of NJDEP acceptance of the OU1 PRAR. Impact to groundwater resulting from the release of UST contents was evaluated as part of the Site groundwater OU2 monitoring activities. Petroleum compounds were not identified as COC during the OU2 CERCLA screening process.

4.4 Polychlorinated Biphenyls (PCBs)

There is no evidence that PCB-containing equipment is located or was previously located on the FOST Parcel. PCBs were not identified as COCs during the OU1 CERCLA screening process.

4.5 Asbestos

All buildings on the Site have been demolished and debris disposed of at offsite properly permitted or licensed offsite disposal facilities. Asbestos was not identified as a COC during the OU1 CERCLA screening process. Pre demolition inspections of buildings verified the presence of vinyl asbestos floor tiles and pipe insulation in the Administration Building and transite wall panels within the Garage. All buildings on the Site have been demolished and debris disposed of at properly permitted or licensed offsite disposal facilities therefore asbestos containing materials are not present on the Site. See Enclosure 3 for material disposition.

4.6 Lead-Based Paint

All buildings on the Site have been demolished and debris disposed of at offsite, properly permitted or licensed offsite disposal facilities. Lead was identified as a COC during the OU1 CERCLA screening process; however, this was not due to lead-based paint. The soil remediation addressed all areas identified as impacted by lead as supported in the PRAR.

4.7 Radiological Materials

Remedial activities for OU1 included excavating and shipping 41231 in situ CY, or 79,098 tons, of radiologically impacted soil and debris to an appropriately permitted or licensed offsite disposal facility (see Enclosure 3).

The demolition of buildings resulted in the removal of 45 tons of building material and construction debris that was combined with the radiologically contaminated soils waste stream. Additionally, all subsurface debris was considered radiologically contaminated, and it was combined with the soils waste stream for disposal.

The entire Site was released for unrestricted use with regard to soil contamination (see Enclosure 3, Table 1b). USACE received concurrence from EPA and NJDEP on the soils remedial action through their approval of the PRAR (USACE 2010). These concurrence letters are referenced in Enclosure 2.

4.8 Radon

Radon was not identified as a COC during the OU1 or OU2 CERCLA screening process. All buildings on the Site have been demolished and debris disposed of at properly permitted or licensed offsite disposal facilities therefore radon is not a concern on the FOST Parcel. See Enclosure 3 for material disposition.

4.9 Munitions and Explosives of Concern

The term “Munitions and Explosives of Concern” means military munitions that may pose unique explosives safety risks, including: (1) unexploded ordnance (UXO), as defined in Title 10 *United States Code* Section 101(e)(5) (10 USC 101(e)(5)); (2) discarded military munitions, as defined in 10 USC 2710(e)(2); or (3) munitions constituents (e.g., 2,4,6-trinitrotoluene, hexahydro-1,3,5-trinitro-1,3,5- triazine), as defined in 10 USC 2710(e)(3) present in high enough concentrations to pose an explosive hazard.

During remedial excavation activities of radiologically impacted soils, a small cache of blank small arms ammunition was unearthed (see Enclosure 1, Figure 8 for the location). The blank ammunition was removed and stored for subsequent disposal.

After consultation with a senior UXO technician, it was determined that the blank ammunition could be safely handled by MSP health physicists technicians (HPTs). The HPTs removed gross contamination from the surface of the munition cartridges and rinsed them with water. All waste soils and water generated during this activity were addressed as part of the ongoing chemical and radiological soil remedial activities at the Site. The cartridges were placed in Marinelli sampling containers (to ensure a reproducible geometry) for gamma spectrometry analysis and then analyzed at the onsite gamma-spectrometry laboratory. Analytical data indicated the cartridges did not contain radioactive isotopes above background levels established for the Site.

Approximately 0.07 cubic meter (2.5 cubic feet) of blank munitions were disposed of through Clean Harbors and sent to their Colfax, Louisiana, facility (EPA ID number LAD981055791).

4.10 Other Property Conditions

Lead and PAH contamination existed in the FOST Parcel soils prior to OU1 remedial actions. Approximately 4454 CY of PAH and lead impacted soils were excavated from the Site and disposed of offsite at a properly permitted disposal facility (Allied Waste, Niagara Falls, New York). See Enclosure 3. The entire Site was released for unrestricted use with regard to soil contamination (see Enclosure 3, Table 1b). USACE received concurrence from EPA and NJDEP on the soils remedial action through their approval of the PRAR (USACE 2010). These concurrence letters are referenced in Enclosure 2.

There are no other conditions on the FOST Parcel that present an unacceptable risk to human health or the environment.

5.0 Adjacent Property Conditions

The area within 0.8 kilometer (0.5 mile) of the FOST Parcel is a mixture of residential homes, commercial and industrial properties, and undeveloped land. The Middlesex Municipal Landfill Site is located approximately 0.5 mile from the FOST Parcel and is being addressed by USACE and DOE under the FUSRAP program for radiological concerns and by the Borough of Middlesex and NJDEP for chemical concerns (see Enclosure 1 Figure 1). The bedrock fractured aquifer under adjacent properties within 0.5 mile to the north of the FOST Parcel is currently being addressed under the OU2 CERCLA process. The locations of previously addressed adjacent properties are shown in Enclosure 1, Figure 3.

The Borough of Middlesex, occupying an area of approximately 4 square miles, has seen a slight increase in population from 13,055 people in 1990 to 13,635 people in 2010 (U.S. Census Bureau 2010).

5.1 Environmental Conditions on Surrounding Properties

The east side of the FOST Parcel borders residential homes and small businesses. The west side borders a former auto body salvage yard. The property to the south of the FOST Parcel consists of marshy land and fields primarily owned by the Borough and includes the south drainage ditch, which carries surface water runoff from the Site to the Mosquito Control ditch, which eventually flows into Main Stream. The FOST Parcel is a subdivision in the southern portion of the Site (see Enclosure 1, Figure 5).

Currently, soils on one commercial property, over a mile from the FOST Parcel, require remediation under the CERCLA process due to radiological concerns. Other adjacent properties (closer to and adjoining the Site) were previously addressed by removal actions.

6.0 Environmental Remediation Agreements

The FOST Parcel is subject to a Federal Facility Agreement (EPA and USACE 2009). In addition, the FOST Parcel is part of the NPL site listed on January 19, 1999. The FOST Parcel will continue to remain part of the NPL site listing after transfer to the Borough. The deed will include a provision reserving the DOE's right to conduct remediation activities if necessary in the future (see Enclosure 6).

7.0 Regulatory/Public Coordination

The community has been an active participant throughout the CERCLA process. During the public comment period for the soils proposed plan (OU1), the USACE received comments from the regulators and the public which were addressed in the Record of Decision (ROD) Responsiveness Summary and accordingly incorporated into the ROD. USACE received concurrence from EPA and NJDEP on the soils remedial action through their approval of the PRAR (USACE 2010). These concurrence letters are referenced in Enclosure 2. Community

participation during development of the OU2 proposed plan and ROD will also be actively encouraged.

8.0 National Environmental Policy Act (NEPA) Compliance

DOE NEPA regulations identify classes of actions that DOE has determined do not individually or cumulatively have a significant effect on the human environment (categorical exclusions). A categorical exclusion from further NEPA review may be applied to the real property actions listed below so long as the regulatory requirements of 10 CFR 1021.410 are met.

Transfer, lease, disposition, or acquisition of interests in personal property (including, but not limited to, equipment and materials) or real property (including, but not limited to, permanent structures and land), provided that under reasonably foreseeable uses (1) there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment and (2) the covered actions would not have the potential to cause a significant change in impacts from before the transfer, lease, disposition, or acquisition of interests.

DOE has determined that the transfer of the FOST Parcel meets the categorical exclusion for A1 Routine DOE Business Actions and B1.24 Property Transfers.

9.0 Finding of Suitability to Transfer

Based on the above information, I conclude that all removal or remedial actions necessary to protect human health and the environment have been taken on the FOST Parcel of the Site and as such, the FOST Parcel is suitable for transfer pursuant to CERCLA Section 120(h)(3). In addition, all DOE requirements to reach a finding of suitability to transfer have been met, subject to the terms and conditions set forth in the attached EPPs that shall be included in the deed for the FOST Parcel. The deed will also include the CERCLA Section 120(h)(3) Notice, Covenant, and Access Provisions and Other Deed Provisions.

Finally, the hazardous substance notification (Enclosure 4, Table 2) shall be included in the deed as required under CERCLA Section 120(h).

Gwendolyn Hooten

RCRA/CERCLA/FUSRAP Team Lead

10.0 Enclosures

Enclosure 1	Figures Including Tax Maps
Enclosure 2	Environmental Documentation
Enclosure 3	Table 1a and 1b—Description of OU1 Remedial Wastes Streams, Disposition, and Remedial Action Objectives Compliance
Enclosure 4	Table 2—Notification of Hazardous Substance Storage, Release, or Disposal
Enclosure 5	Table 3—Notification of Petroleum Product Storage, Release, or Disposal
Enclosure 6	CERCLA Notice, Covenant, and Access Provisions and Other Deed Provisions
Enclosure 7	Environmental Protection Provisions

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Enclosure 1

Figures Including Tax Maps

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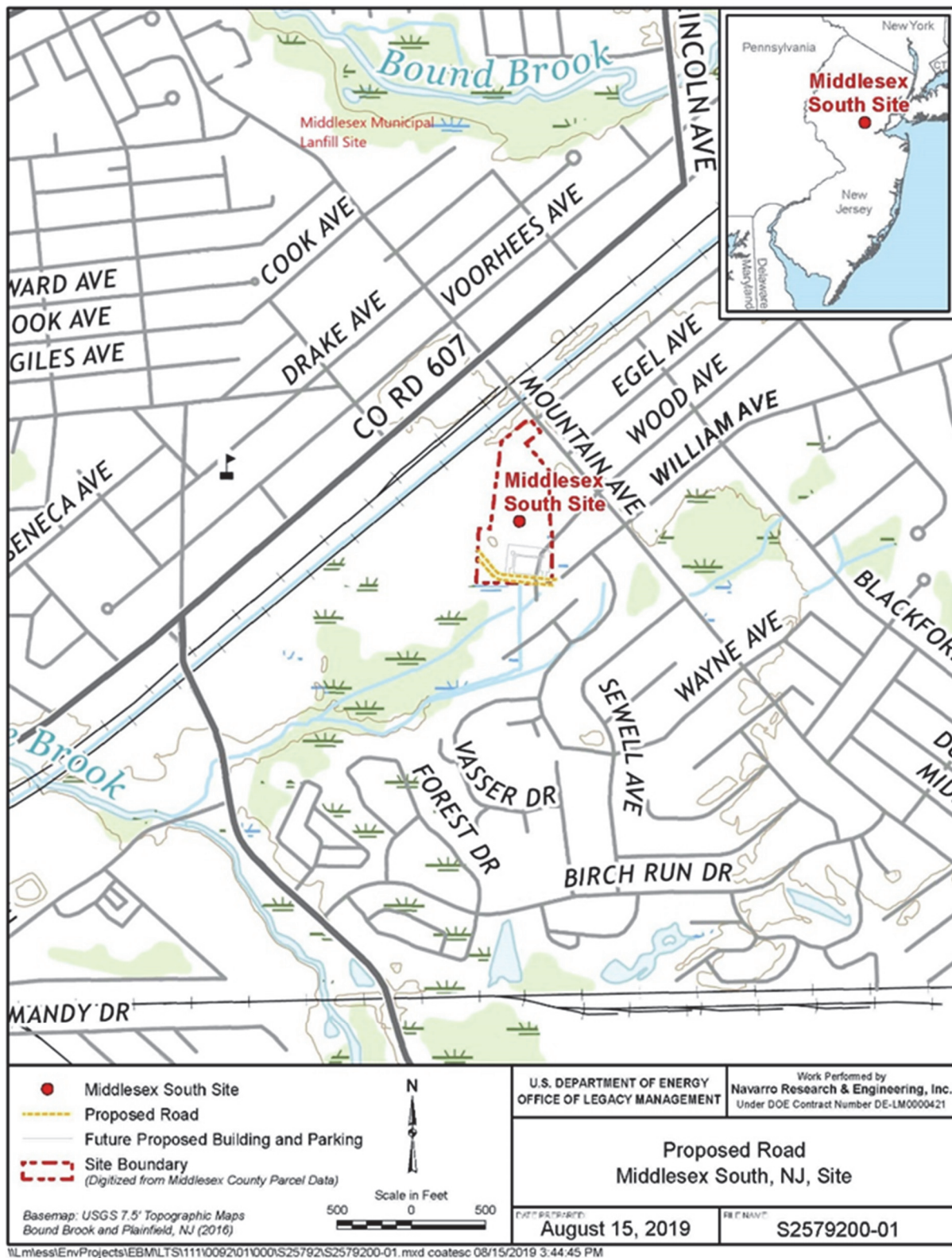


Figure 1. Site Location



Figure 2. Aerial View of the Site

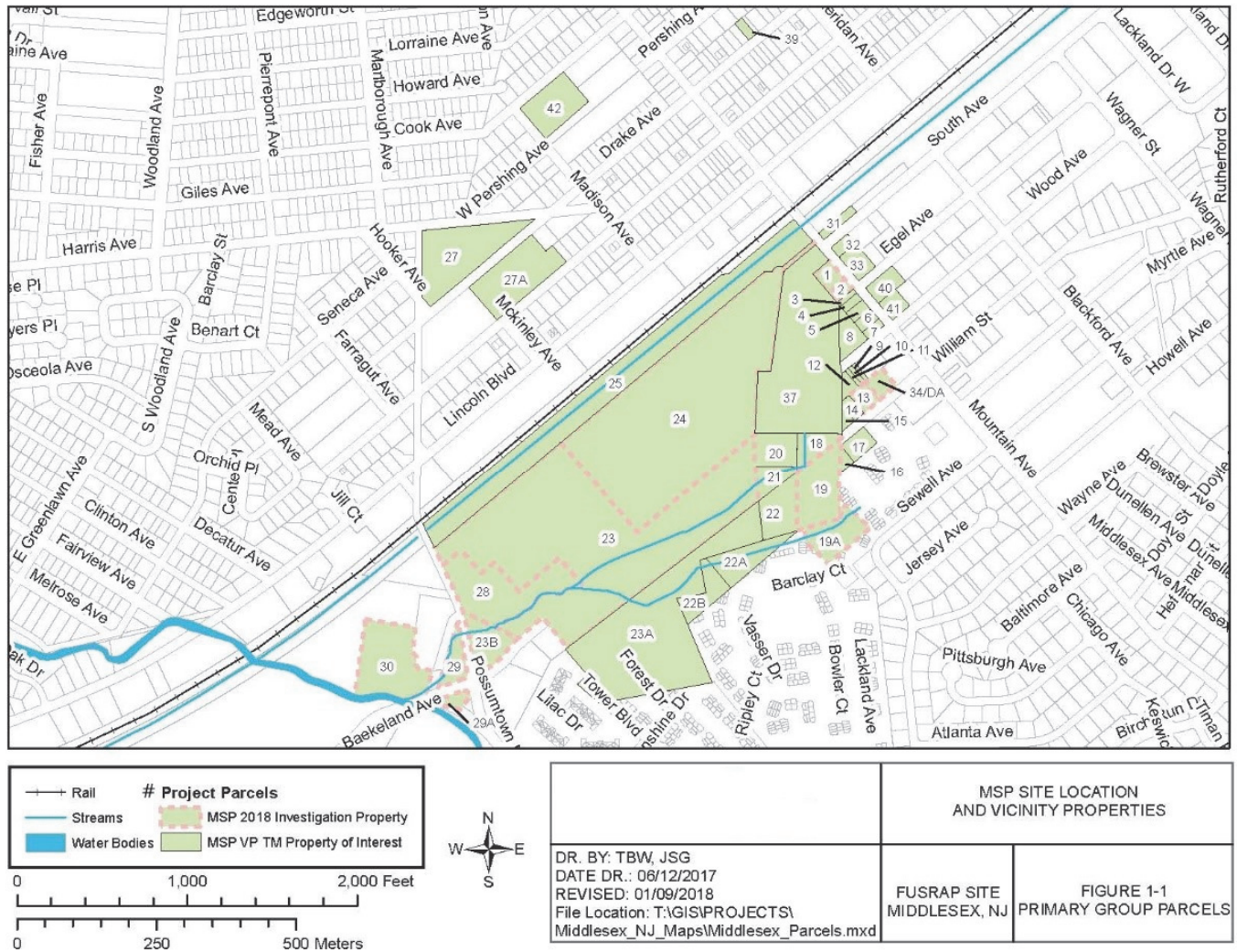


Figure 3. Site and Closest Previously Addressed Adjacent Properties

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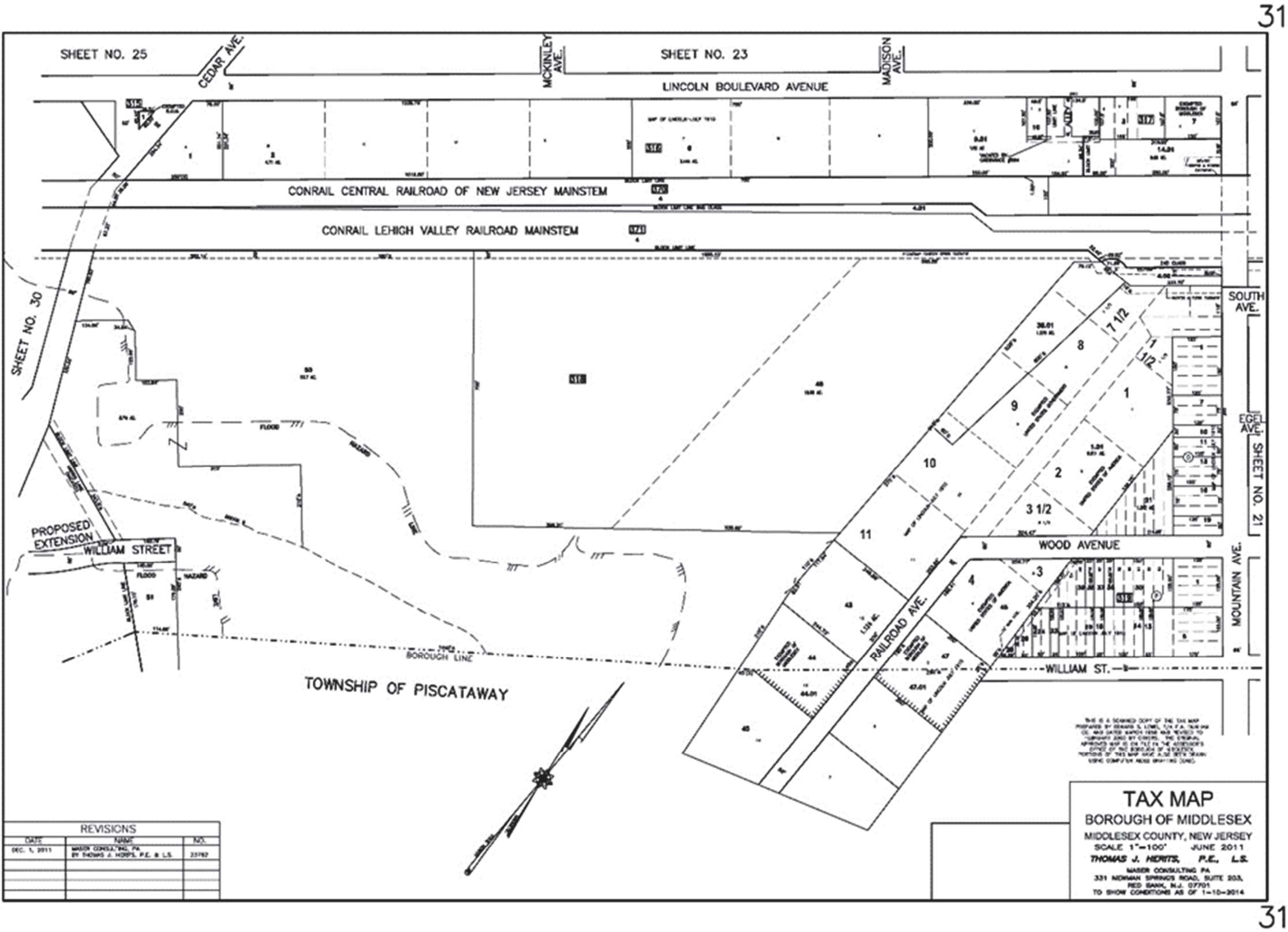


Figure 4. Tax Map Showing the Site

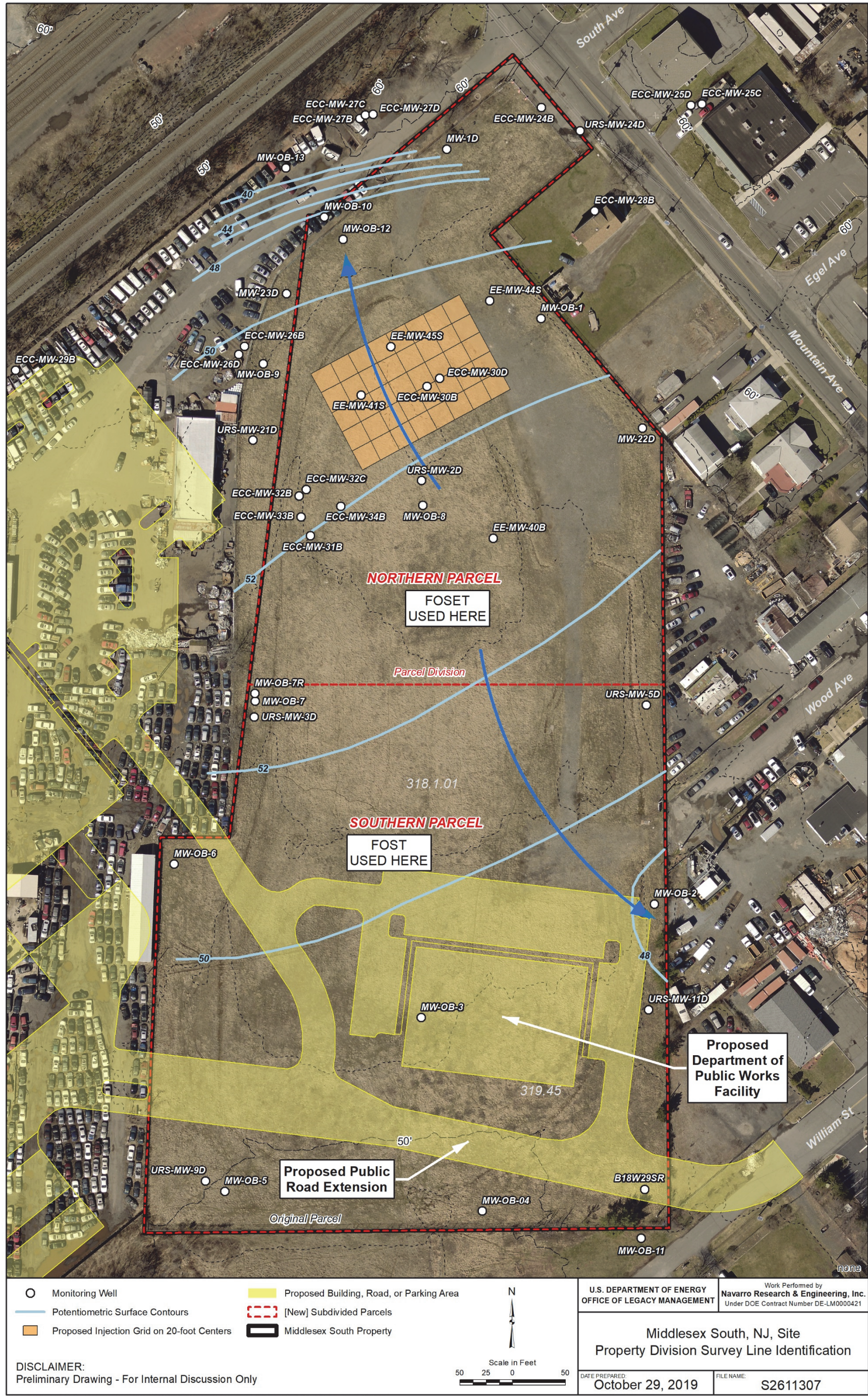
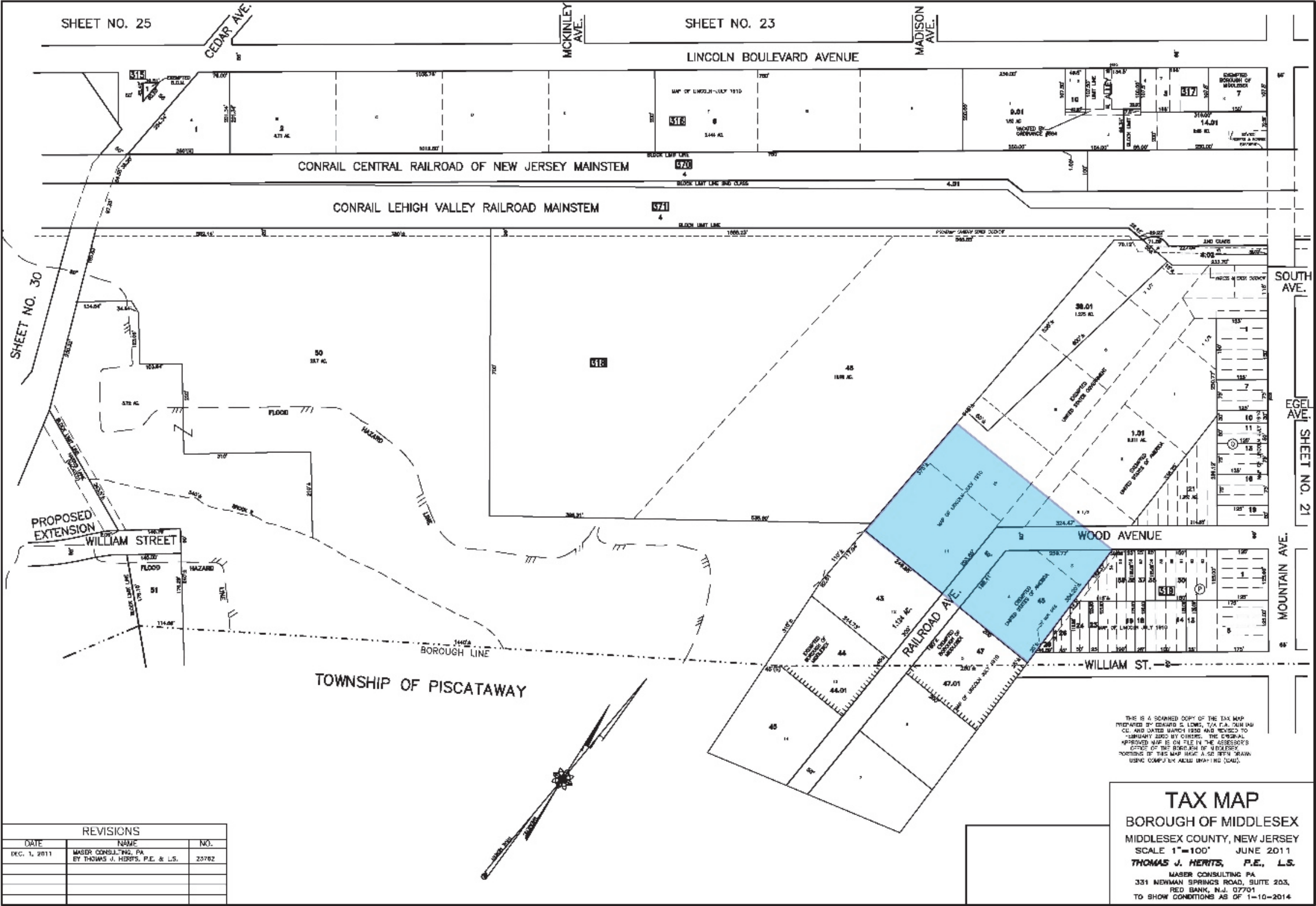
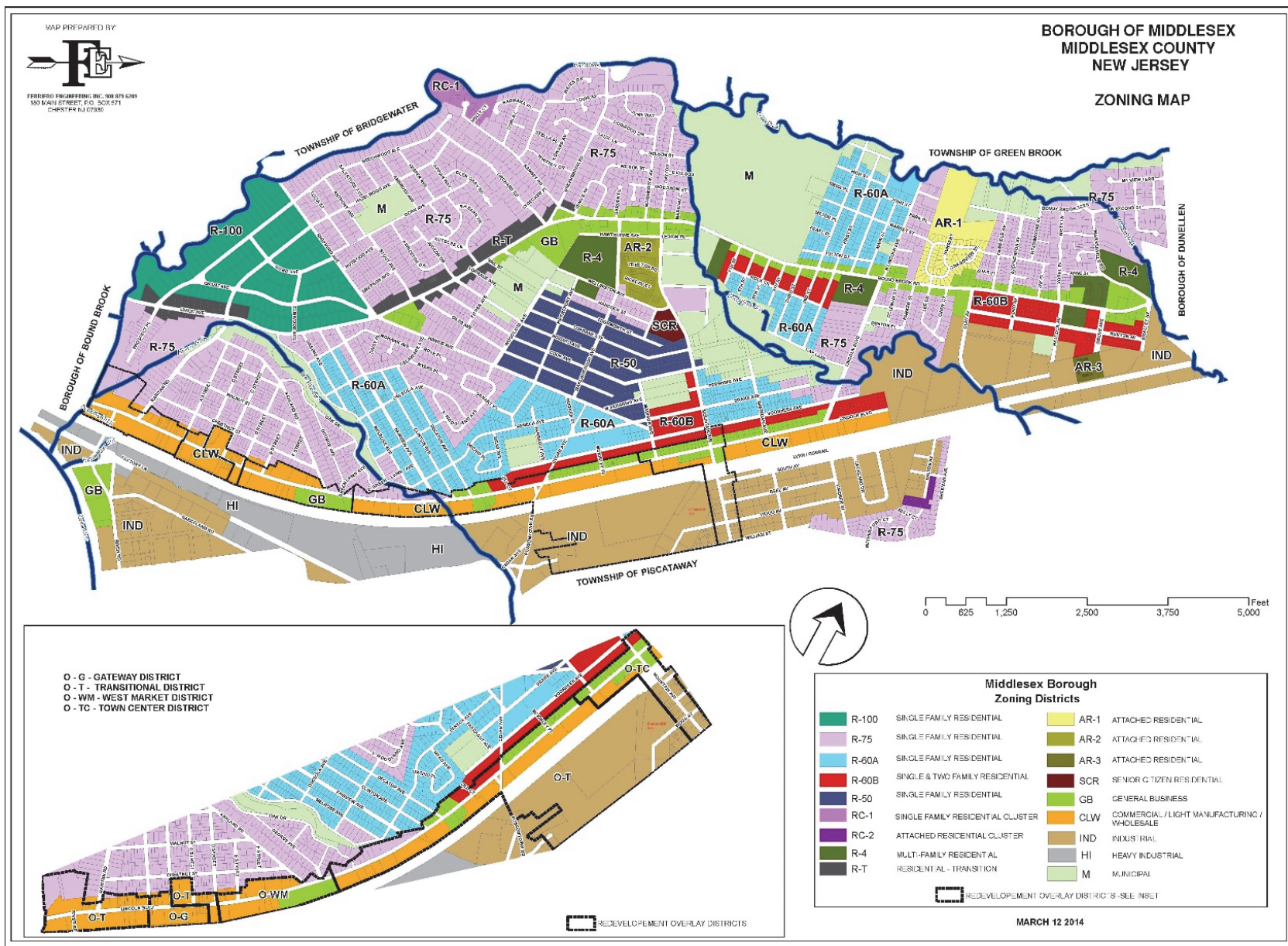


Figure 5. Site and FOST Parcel



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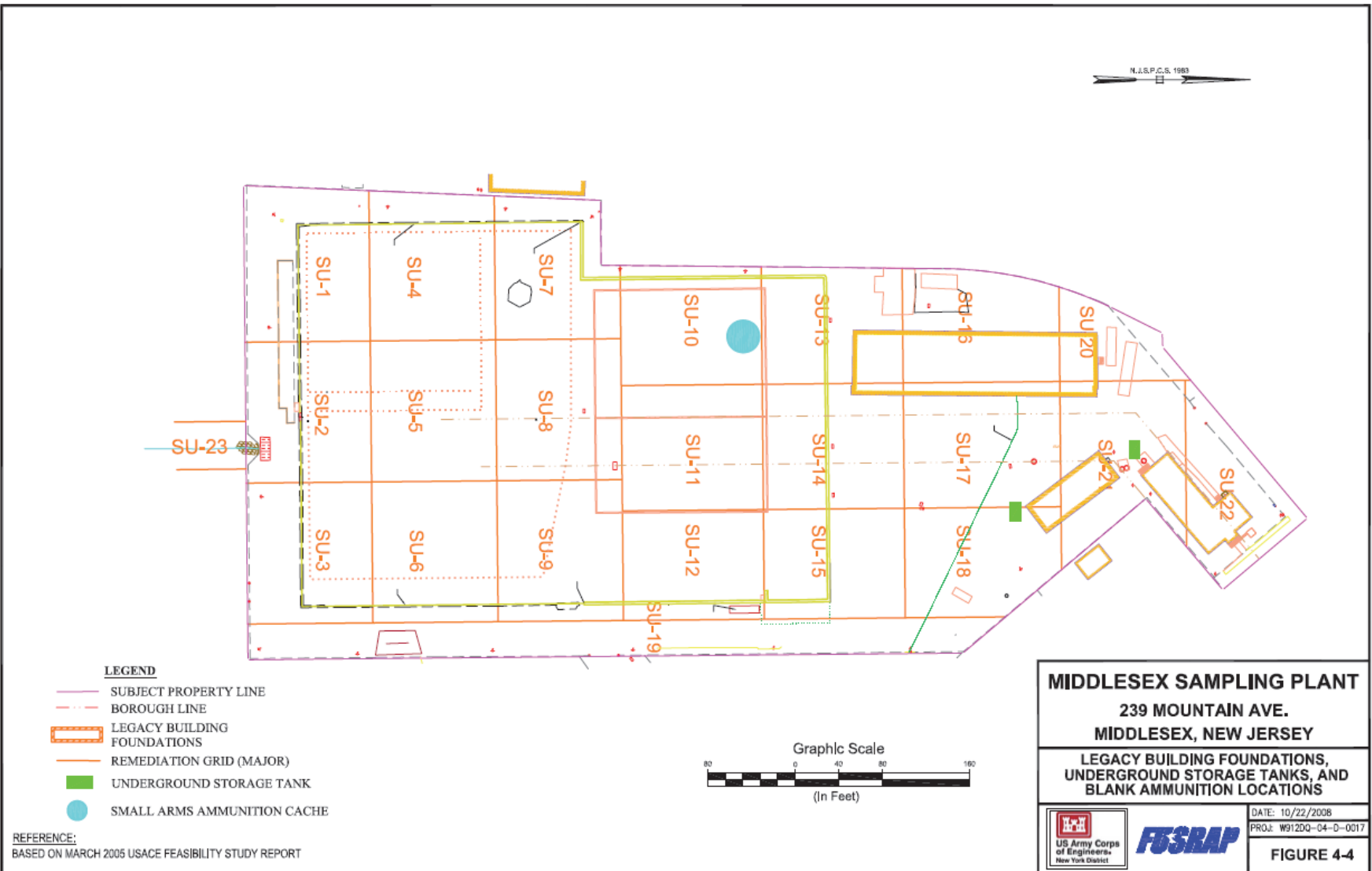


Figure 8. Survey Units Legacy Building Foundations, Underground Storage Tanks, and Blank Ammunition Locations

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Enclosure 2

Environmental Documentation

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10 CFR 770. “Transfer of Real Property at Defense Nuclear Facilities for Economic Development,” *Code of Federal Regulations*.

10 CFR 1021.410. “Application of Categorical Exclusions (Classes of Actions That Normally Do Not Require EAs or EISs),” *Code of Federal Regulations*.

10 USC 101. “Definitions,” *United States Code*.

10 USC 2710. “Inventory of Unexploded Ordnance, Discarded Military Munitions, and Munitions Constituents at Defense Sites (Other Than Operational Ranges),” *United States Code*.

AEC (U.S. Atomic Energy Commission), 1974. *Radiation Survey Report of the Middlesex Landfill Site*, USAEC-NRN-7406, Washington, D.C.

ANCO Environmental Services Inc., 2007. *Underground Storage Tank Closure Report*, Middlesex Sampling Plant, Middlesex, New Jersey.

DOE (U.S. Department of Energy), 1998. *CERCLA Requirements Associated with Real Property Transfers*, DOE EH-413-9808, April.

DOE (U.S. Department of Energy), 2005. *Cross-Cut Guidance on Environmental Requirements for DOE Real Property Transfers (Update)*, DOE/EH-413/9712.

DOE (U.S. Department of Energy), 2019. *NEPA Categorical Exclusion Determination Form, Construction Easement and Property Transfer at the FUSRAP Middlesex South, New Jersey Site*, October.

ECC (Environmental Chemical Corporation), 2000. *Interim Pile Removal Closure Report*, Middlesex Sampling Plant, Middlesex, New Jersey, November.

ECC (Environmental Chemical Corporation), 2006a. *Closure Report for Building Demolition*, Middlesex Sampling Plant, Middlesex, New Jersey, November.

ECC (Environmental Chemical Corporation), 2006b. *Contractor Quality Control Plan (CQCP)*, Formerly Utilized Site Remedial Action Program Soils Operable Unit, Middlesex Sampling Plant, Middlesex, New Jersey, July.

ECC (Environmental Chemical Corporation), 2006c. *Final Status Survey Plan (FSSP)*, Formerly Utilized Site Remedial Action Program Soils Operable Unit, Middlesex Sampling Plant, Middlesex, New Jersey, December.

ECC (Environmental Chemical Corporation), 2006d. *Project Management Plan (PMP)*, Formerly Utilized Site Remedial Action Program Soils Operable Unit, Middlesex Sampling Plant, Middlesex, New Jersey, July.

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Enclosure 3

Table 1a and 1b

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Table 1a. OU1 Waste Streams and Disposition

Waste Type	Volume	Weight	Disposal Facility
Radiological Waste (Soil and Debris including building debris and petroleum contaminated soils)	31,510 in-situ m ³ (41,231 CY)	7.23 X 10 ⁷ kg (79,687 tons)	US Ecology Idaho, Inc. PO Box 400 20400 Lemley Rd Grand View, Idaho 83624
Regulated Radiological Waste (Soil and Debris)	10 ex-situ m ³ (13.3 CY)	16846 kg (18.57 tons)	Energy Solutions, LLC Clive Disposal Site (Bulk Waste Facility) Interstate 80, Exit 49 Clive, Utah 840029
Small Arms Blank Cartridge Waste	0.07 ex-situ m ³ (2.5 cu ft)	90.72 kg (200 lbs)	Clean Harbors, Colfax, LLC 3763, Highway 471 Colfax, Louisiana 71417
Chemically Impacted Waste (Soil and Debris)	3,405 in-situ m ³ (4,454 CY)	7.24 X 10 ⁶ kg (7,984 tons)	Allied Waste Niagara Falls Landfill 56 th Street and Niagara Falls Blvd Niagara Falls, New York 14304
Asbestos Containing Material from building demolition	800 square feet (ft ²) of tile and an undocumented ft ² wall panels, 100 linear feet of pipe insulation	n/a	Girard Point Landfill Philadelphia, PA (insulation/wall panels) US Ecology Idaho, Inc. PO Box 400 20400 Lemley Rd Grand View, Idaho 83624 (tiles/wall panels)
Non-Hazardous/ DOT Combustible Liquid Waste Oil (UST Contents)	6,435 ex-situ liters (1,700 gallons)	n/a	Clean Water of New York 3249 Richmond Terrace Staten Island, NY 10303
Waste Water from Impacted Survey Units	5,159,134 ex-situ liters (1,362,899 gallons), pre-treated on site and compliantly discharged	n/a	Middlesex County Utilities Authority (MCUA) 2571 Main Street Sayreville, New Jersey 08872

Abbreviations:

kg = kilograms

m³ = cubic meters

n/a = not applicable

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Table 1b. OU1 Performance Results Compared with Remedial Action Objectives

Remedial Action Objectives	Performance Results
Soil excavation to an unrestricted use cleanup level as identified in the MSP Soils OU-1 ROD. Off-site disposal of the excavated radiologically and chemically impacted soils at licensed and permitted facilities.	45,698 in-situ CY, or 86,879 tons of radiological and to a much lesser extent petroleum contaminated material (soils and debris) were removed from the Site and disposed off site at a licensed/permitted disposal facility. Remedial activities for OU-1 included the excavation and shipment of approximately 41,244 in-situ CY, or 79,705 tons, of radiologically impacted soil and debris, and approximately 4,454 in situ CY, or 7,781 tons of chemically impacted waste.
Demolition, removal and off-site disposal of contaminated former storage pads and below-grade structures at licensed and permitted facilities.	Legacy building foundations, drainage structures, and the settling basin were also removed during excavation, and shipped with contaminated soil to off-site disposal facility. Volumes included with soil volume above.
Certification of the property for unrestricted use with regards to soils.	Upon completion of excavation activities and prior to backfilling of each survey unit, a FSS of the twenty-three (23) Class 1 impacted SUs was performed in accordance with MARSSIM protocol. The MARSSIM FSS Null Hypothesis was “rejected” for all SUs, which means that remaining soil in all SUs are below the cleanup criteria for radionuclides. Analytical results of final status chemical and lead samples were compared directly to the cleanup criteria for each of the individual PAH/metal constituents. All chemical and metal samples results were well below the cleanup criteria for each of the five PAHs and lead. Following the completion of remediation activities, the site was backfilled with certified clean backfill and was topped and seeded to restore established final grade per final grading levels as required by the contract and approved by the Borough of Middlesex. All soils met MSP Soils OU-1 ROD criteria, which allows for unrestricted use of the Site.
Minimize potential health hazards to personnel performing the remedial action.	The <i>Site Safety and Health Plan</i> (ECC, 2006h) was followed. Contamination control methods were successfully implemented to avoid personnel contamination events or intakes above established limits.

Abbreviations:

FSS = final status survey

MARSSIM = Multi-Agency Radiation Survey and Site Investigation Manual

SU = survey unit

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Enclosure 4

Table 2

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Table 2. Notification of Hazardous Substance Release, Storage, or Disposal

Area	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
Site	PAHs	PAH contamination is assumed to have originated prior to government activities at the Site. PAHs are ubiquitous and associated with asphalt. Releases are assumed to have occurred when the Site was used to manufacture asphalt paints (1910–1943).	OU1 remedial actions addressed PAH contamination.
Site	VOCs	The release area for carbon tetrachloride, chloroform (a breakdown product of carbon tetrachloride), and trichloroethene appears to be limited to a small sump that was located in the former Process Building. This sump was used to dispose of wastewater and may have been used for the disposal of nonwater residuals, although site records do not indicate the use of solvents as part of site operations.	OU2 remedial action will address VOC contaminated groundwater.
Site	Uranium and its daughter products	Site history indicates potential releases to soils as early as 1943 and throughout the duration of MSP operations 1943–1955.	OU1 remedial actions addressed uranium and its daughter products contamination.
Site	Lead	The release area for lead appears to be limited to a small sump that was located in the former Process Building. This sump was used to dispose of wastewater and may have been used for the disposal of nonwater residuals, although site records do not indicate the use of lead as part of site operations.	OU1 remedial action addressed lead contamination at the property.

Abbreviation:

VOC = volatile organic compound

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Enclosure 5

Table 3

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Table 3. Notification of Petroleum Product Storage, Release, or Disposal

Building Number	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Action Description
SUs 18 and 21	#2 Fuel Oil	A "No Further Action" classification of the former UST sites was requested for the soils based on the UST closure activities and the UST removal analytical results.	During remedial excavation activities, the government encountered two 1893-liter (550-gallon) USTs. One UST (UST #1) was in SU 21 and was likely associated with the former administration building; the other (UST #2) was in SU 18. USTs and associated soils were removed and disposed of with radiologically impacted soil waste stream as part of OU1.

Abbreviation:

SU = survey unit

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Enclosure 6

**CERCLA Notice, Covenant, and Access Provisions and
Other Deed Provisions**

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The following CERCLA Covenant and Access Provisions, along with the Other Deed Provisions, will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

Property Covered by Notice, Description, Access Rights, and Covenants Made Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. Section 9620(h)(3)(A)):

For the Property (defined as the FOST Parcel), the Grantor provides the following notice, description, and covenants and retains the following access rights:

Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9620(h)(3)(A)(i)(I) and (II)):

Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time at which such substances were stored, released, or disposed of, as defined in section 120(h) is provided in Enclosure 4, attached hereto and made a part hereof.

Description of Remedial Action Taken, if Any, Pursuant to Section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)):

Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the property is provided in Enclosure 3, Tables 1a and 1b, attached hereto and made a part hereof.

Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)):

Pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)), the United States warrants that –

All remedial action necessary to protect human health and the environment with respect to any hazardous substances identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the property has been taken before the date of this deed, and

Any additional remedial action found to be necessary after the date of this deed shall be conducted by the United States.

Access Rights Pursuant to Section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)):

Pursuant to section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)), the United States

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retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which an environmental response action or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test-pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and its successors and assigns and shall run with the land. The Grantee shall also grant rights of access to DOE, USACE, EPA, NJDEP, their agents, contractors, and employees for the purposes of implementing, monitoring or demonstrating compliance with the groundwater remedy.

In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means, but without significant additional costs to the United States, to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property. At the completion of any work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause. Provided, however, that nothing in this paragraph shall be considered a waiver by the Grantee, its successors and assigns, of any remedy available to them under the Federal Tort Claims Act. In addition, the Grantee, its successors and assigns, shall not interfere with any response action or corrective action conducted by the Grantor on the Property.

“AS IS” CONDITION OF PROPERTY

The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the Property. The Grantee understands and agrees that the Property is conveyed “AS IS” without any representation, warranty, or guaranty by the Grantor as to the quantity, quality, title, character, condition, size, or kind, or that the same is in a suitable condition or fit to be used for the purpose(s) intended by the Grantee, and no claim for allowance or deduction upon such grounds will be considered.

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No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. The failure of the Grantee to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property will not constitute grounds for any claim or demand against the Grantor.

Nothing in this “As Is” provision shall be construed to modify or negate the Grantor’s obligation under the “Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B))” or any other statutory obligations.

INDEMNIFY AND HOLD HARMLESS

To the extent authorized by New Jersey law, the Grantee, for itself, its successors and assigns, covenants and agrees to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the notices, covenants, conditions, and restrictions in this deed by the Grantee, its successors and assigns, and (2) any and all claims, damages, judgments, losses, and costs arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of the conveyance.

The Grantee, for itself, its successors and assigns, covenants and agrees that the Grantor shall not be responsible for any costs associated with modification or termination of the notices, covenants, conditions, and restrictions in this deed including, without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

Nothing in this “Indemnify and Hold Harmless” provision shall be construed to modify or negate the Grantor’s obligations under the “Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9620(h)(3)(A)(ii) and (B))” or any other statutory obligations.

POST-TRANSFER DISCOVERY OF CONTAMINATION AND RELEASE

If a release or threatened release of a hazardous substance is discovered on the Property after the date of conveyance herein, Grantee, its successors or assigns shall be responsible for such newly discovered release or threatened release of a hazardous substance unless the Grantee or its successors or assigns is able to demonstrate that such release or threatened release of a hazardous substance was due to Grantor’s activities, use, or ownership of the Property. If the Grantee or its successors or assigns believe the newly discovered hazardous substance is due to the Grantor’s activities, use, or ownership of the Property, the Grantee or its successors or assigns shall immediately secure the site and notify the Grantor of the existence of the release or threatened release of the hazardous substance, and the Grantee or its successors or assigns shall not further disturb or allow the disturbance of such hazardous substances without the prior written permission of the Grantor.

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The Grantee, for itself, its successors and assigns, as part of the consideration for the conveyance of the Property, hereby releases the Grantor from any liability or responsibility for any claims arising solely out of the release or threatened release of any hazardous substance on the Property occurring after the date of the conveyance herein where such hazardous substance was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents, contractors, or any person other than the Grantor after the date of the conveyance herein. This “Post-Transfer Discovery of Contamination and Release” provision shall not affect the Grantor’s responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor’s obligations under the “Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)).”

ENVIRONMENTAL PROTECTION PROVISIONS

The Grantee shall neither transfer the Property, lease the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without including the Environmental Protection Provisions set forth in Enclosure 7, attached hereto and made a part hereof, and shall require the said provisions be included in all subsequent deeds, easements, transfers, leases, or grant of any interest, privilege, or license in, of, on, or to the Property or any portion thereof.

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Enclosure 7

Environmental Protection Provisions

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The following conditions, restrictions, and notifications are being proposed in a substantially similar form in the draft OU2 Proposed Plan for the Site, in the deed to ensure that there will be no unacceptable risk to human health and the environment. Since the FOST Parcel is a subpart of the Site and groundwater has been found to meet applicable standards, these restrictions may not be necessary for the FOST Parcel.

LAND USE RESTRICTIONS

Groundwater Restriction. The Grantee, for itself, its successors and assigns, hereby covenants and agrees not to access or use, or allow access to or use of the groundwater underlying the Property (FOST Parcel) for any purpose without the prior written approval of the United States Department of Energy. For the purpose of this restriction, "groundwater" shall have the same meaning as in section 101(12) of the CERCLA. Notwithstanding the foregoing, the following activities and impacts shall be permissible and shall not violate the aforesaid restriction if conducted in compliance with all applicable laws and regulations: (i) dewatering solely because of incidental contact with groundwater from construction and/or improvements on the Property; (ii) incidental pumping of groundwater associated with preventing moisture from entering a sub-grade structure (i.e., sump pump); and (iii) groundwater monitoring wells solely for the purpose of performing environmental sampling and/or monitoring.

Notice of Groundwater Monitoring Wells. The Grantee is hereby informed and does acknowledge the presence of approximately 12 groundwater monitoring wells on the Property. The locations of these monitoring wells are shown on maps included in Enclosure 1 and Attachment 1 to the EPPs. The Grantee shall not disturb or permit others to disturb the monitoring wells located on the Property without prior written approval from the Grantor and the New Jersey Department of Environmental Protection. Upon the Grantor's determination that a well is no longer necessary, the Grantor will close such well at the Government's sole cost and expense in accordance with applicable laws, regulations, and ordinances.

Modifying or Terminating the Restrictions. Nothing contained herein shall preclude the Grantee, its successors or assigns from undertaking, in accordance with applicable laws and regulations and without any cost to the Grantor, such action as would be necessary to allow access to or use of the groundwater underlying the Property. Prior to any such use of the groundwater restricted under the paragraph above, the Grantee shall consult with and obtain the approval of the Grantor. Upon the Grantee's obtaining the approval of the Grantor, the Grantor agrees to prepare and execute an instrument modifying or terminating, as appropriate, the land use restriction set forth herein. The recordation of any such instrument in the land records of Middlesex County, New Jersey shall be the responsibility of the Property owner and shall be accomplished at no additional cost to the Government.

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The Grantee, its successors and assigns shall submit any requests for modification or termination of the restrictions set forth herein to the Grantor, by first class mail, postage prepaid, addressed as follows:

Grantor:

U.S. Department of Energy
2597 Legacy Way
Grand Junction, CO 81503
.....

With a copy to:

U.S. Army Engineers District, New York
26 Federal Plaza, (CENAN-RE-M)
New York, NY 10278